IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2041 OF 2007

IN

APPEAL NO.844 OF 2006

IN

SUIT NO.1050 OF 1996

Dilip Kumar g. Badlani. ...Appellant.

vs.

Maharashtra State Financial Corporation & another. ...Respondents.

Mr.P.J.Pandit, for appellant.

Mr.A.K.Barthakur, for Respondents.

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 6th September,2007.

P.C.:-

1. This is a notice of motion taken out by the appellant for hearing of this appeal out of turn. By the order impugned in the appeal, suit of the appellant has been dismissed as barred by the principle of Res judicata. The suit of the

appellant-plaintiff is for setting aside the sale of his property by defendant no.1 in favour of defendant no.2. According to the appellant-plaintiff, we should hear this appeal expeditiously because, according to him, the creditor of defendant no.2 is likely to sell the property under the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act,2002. Even assuming that it is so, hearing of the appeal will not stall the process of sell because if the appeal is allowed all that will happen is that the suit of the plaintiff will be restored and that by itself will not stop the creditor of defendant no.2 from selling the property. The notice of motion is utterly misconceived, hence, disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA,J.)